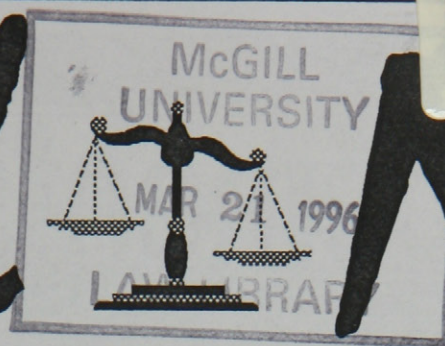


Quid Novi



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UNIVERSITÉ MCGILL FACULTÉ DE DROIT
McGILL UNIVERSITY FACULTY OF LAW

March 18, 1996
le 18 mars, 1996

Referendum, Référendum, Referendum, Référendum

E. Marian Tremblay
Président L.S.A.

On Wednesday March 20th and Thursday March 21st, student members of the L.S.A. will be asked to vote in a referendum.

The Issue:

The adoption of a full corporate form to comply with provincial law.

The History:

In 1992, eighty (80) years after its foundation, the L.S.A. was incorporated. McGill University requested that student councils in all faculties be incorporated not to expose the university or its students to any liability. Although the L.S.A. is now officially known as the McGill Law Students Association INCORPORATED, our articles of incorporation, our by-laws and regulations were never filed nor registered. Following the initiatives of previous years' councils, the L.S.A. executive saw it necessary to ensure the completion of re-drafting process. I asked Craig Shepherd and Fred Headon to chair the Review Committee with the help of Mary-Pat Cormier, Jonathan Lerner and Adam Atlas.

The Proposal:

Through consultation with outgoing and incoming members of the L.S.A., including the L.S.A. legislative council and different groups and clubs, the L.S.A. Constitution Review Committee decided early on that changing the constitution to comply with a new corporate structure afforded an opportunity to update some

aspects of the present Constitution.

Under the new corporate structure, students enrolled at the Faculty will be considered "members" or shareholders of LSA Inc. (the "Corporation" in English or/ou la "Compagnie" en français). The L.S.A. legislative council will be the Board of Directors of the Corporation ("administrateurs") and the L.S.A. executives will be the officers of the Corporation ("dirigeants").

The articles of incorporation ("statuts") define the skeletal structure of the Corporation and its larger guiding principles and procedural safeguards. The by-laws ("règlements") set out the procedural details of how the Corporation is to function. The regulations ("règles") govern the detailed procedures and provide guidelines on how the Corporation is to function. Together, they constitute what we can call our corporate "package" (or in French le "Document").

The Changes:

Some important changes were introduced. These include:

-Fiscal and Executive Year-End: the fiscal and the executive year-end was changed to coordinate with our activities and with the year-end of other student organizations on campus. In turn, we provide time for outgoing members of the Board to mentor and guide in-coming members of the Board, and to properly close our "fiscal books".

-Annual reports: reports are required from the officers and from all members of the

Board to insure transparency, accountability and continuity from year to year.

-Election procedure: the election procedure was changed to follow a full corporate structure.

-Social Coordinator: the title of social coordinator was changed to Vice-President Internal because historically, there was no valid reason to call that person social coordinator. It is an executive position which requires commitment and for coherence purposes it should be a Vice-President as all the other executives.

-Career and Placement Committee: we recognize and formally adopt the restructuring plan of the L.S.A.

(Continued on page 6)

In This Issue *Dans ce numéro*

Announcements/ Annonces	2
"On the Poverty of Student Life" Today	3
Gale Cup Mooting	4
Student Shut-Out	5
Top Ten	5
Resource Groups	6

Announcements / Annonces

"Reimagining the National Body: Race, Sexuality, and the Discourse of Rights in South Africa."

On Wednesday, MARCH 20th, at 12:30, Carl Stychin, a visiting professor here from Keele University in England until July, will be presenting a Legal Theory - Annie Macdonald Langstaff Workshop.

Professor Stychin spent five weeks doing research in South Africa last year, and his talk will be based on some of that work. He is interested in how sexual orientation has been worked in to South Africa's Constitution -- particularly from a perspective that seeks to analyse how sexual orientation has been constructed historically from within conservative ideology. Through the inclusion of sexual orientation in the Constitution, a new legal identity is being created in South Africa, one that he sees as a blending of indigenous law and foreign legal discourse.

Professor Stychin's most recently published book is entitled "Law's Desire -- Sexuality and the Limits of Justice."

The second annual "Women's Health Matters" conference will take place on

Friday, March 29. The conference is being sponsored by the McGill Centre for Research and Teaching on Women and the McGill Women's Union, and will be held in the McIntyre Medical Building.

The morning will feature a panel of three speakers who will each explore the "Medicalization of Women's Health". This will be followed by both morning and afternoon workshop sessions.

Professor Shauna Van Praagh will be facilitating a workshop in the afternoon: "Women's Health Issues: Law Meets Medicine". Other workshop topics include: "Women, Technology and the Future of Procreation," Gwynne Basen; "Women, Literacy and Health in Canada", Lorna Yates; "Reproductive Irresponsibility" (en français), Louise Vandellac; "Disability and Body Image", Karen Lebacqz; and "Violence conjugale et les femmes immigrantes: comment intervenir?", My Hung Pham.

Since discussion groups will be limited to 20 participants each, prompt registration is suggested (and required). If you are interested in attending the conference (it's free!), please fill out one of the forms tacked onto the "Women and the Law" area of the student notice board, or talk to Nora Bednarski (LLB I) for more information.

First Meeting of New Club

Sexual Minorities and Law/ Les Minorités Sexuelles et le Droit, a new, L.S.A.-recognized, student organization, will have its first meeting on Thursday, March 21st at 4:15 p.m. in room 201. The meeting will be short and is intended to provide a forum for brainstorming on what all interested students - regardless of sexual orientation - might like to see such an organization do within the faculty. Nascent ideas include speaker series on queer legal issues, resource development for legal research, and lobbying for incorporation of queer legal issues in Faculty courses. Questions? 844-0408, Todd.

* * *

LUNCH WITH CARL STYCHIN

Sexual Minorities and Law/ Les Minorités Sexuelles et le Droit will be hosting a brown-bag lunch with Professor Carl Stychin in Thompson House (back room- entrance level, opposite entrance) on Wednesday, March 20th at roughly 1:30 p.m., immediately following his Legal Theory - Annie Macdonald Langstaff workshop. Questions? 844-0408, Todd.

* * *

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A Rant on the Relevance of "On the Poverty of Student Life" Today

Elizabeth Preston, LLB I

In the Fall of 1966 a group of students at the University of Strasbourg ran for student government office on the platform that if elected, they would disband themselves as representatives of the student body and abolish the student government. They won. Once in office there was one matter of business to attend to before fulfilling their campaign promise - what was to be done with the student government's budget? It had to be spent and in an act that scandalized the administration, the student government spent its entire budget on the reproduction and dissemination of one essay, an essay that less than two years later would help shape the demands and desires of student protesters in France in the upheaval that subsequently cost DeGaulle his job, "May '68."

Written by Mustapha Kayati, "On the Poverty of Student Life: Considered in its Economic, Political, Psychological, Sexual and Especially Intellectual Aspects, with a Modest Proposal for its Remedy" was a diatribe on student complicity in the general passivity and apathy of a society dominated by commodity fetishism and what Guy Debord called "the society of the spectacle", a world in which "everything that was directly lived has moved away into representation." The poverty of student life, then, finds its immediate compensation in "the opium of cultural commodities". One need only stroll across campus to catch a glimpse of our new identities (only \$98 at "our store" with valid student I.D.) "In cultural spectacle, the student finds his natural place as a respectful disciple. Although he is close to the production point, access to the real Sanctuary of Culture is denied him; so he discovers 'modern culture' as an admiring spectator. In an era when art is dead he remains the most loyal patron of the theaters and film clubs and the most avid consumer of the packaged fragments of its preserved corpse displayed in the supermarkets...Consuming unreservedly and uncritically, he is in his element." Sound familiar?

The critique of university education as the instrument of policy of efficiency directed at the creation of specialized personnel adapted to new production

techniques is likewise central to the argument of "The Poverty of Student Life." It's relevance is evidenced by a discussion a friend of mine had while teaching an undergraduate class several semesters ago. While teaching John Edgar Wideman's *Brothers and Keepers*, a text about two brothers whose lives take divergent paths, (one becomes a professor, the other winds up in jail for murder), they began to ask themselves how it was that they came to study in their respective disciplines. It quickly became apparent that all but one of the 22 students were studying the natural and physical sciences, business and finance, athletics. "Why do you seek this type of education?" my friend asked. "Why not study the humanities? Why not study literature or philosophy or history?" There were many valid answers, but there was one response in particular, defended by the majority of the class, that he would not let go without careful scrutiny. The response, of course -- the need to get a job.

In a moment of existential angst and knowing full well the economic necessities imposed upon us (the "need to get a job"), he inquired as to the meaning of work. Their collective response were disturbing. Their conclusion went something like this: we get an education so that we can get a good (if boring) job so that we can earn money to do as we please. As one student succinctly put it, "So you see, to work is to be free!" My (rather Marxist friend) shuttered for a moment and with 30 seconds left in the class had to respond. "Have any of you heard of Dachau?" He asked, now melancholy. Sadly, only 6 or 7 of them could tell the rest of the class what Dachau was (these being American undergrads). He then asked those familiar with Dachau if they know what was written above its gates. Nobody knew. He told them. "Arbeit macht Frei", work makes freedom. Jaw's dropped. Utter silence ensued. End of class.

Students at the Law Faculty, like all students, lead a double life. We are, in a sense, in limbo, poised between now and then, between our current status as "student" and a future, in whatever individual or collective manner this has been imagined, we must assume is always waiting for us. And for many, these years of limbo provide the opportunity to break from his or her

docile acceptance of gendered, classist, racist and ethnic prejudices.

Yet there is a sense, Kayati suggests, in which we bask in a mystical trance of a present sheltered from history. More often than not, we avoid thinking about our situation as students, especially its economic and political implications. We are poorly paid (if at all), over worked. Yet, we are a privileged minority ready to take up our positions within a managerial class. We're generally ignorant or uncritical of western foreign policy and the millions of lives it continually brutalizes. We are placated with televisions and told what to think about. In spite of the relative individual liberty that is tolerated at our institution, the "student prefers(s) to security of the straight jacket daily space-time organized for his benefit by the guardians of the system." An atomaton. A cog. A television in every home.

I'm not suggesting that Kayati proposed the best remedies for the society he diagnosed, nor that the diagnosis was completely accurate. Rather, he raises the question as to the role a university education plays in reproducing commodity fetishism and the mass production of an uneducated managerial elite. One needn't pick up a fresh copy of the most recent hip glossy plastic cover diatribe on the prevailing tendencies and ideological assumptions of the commodification of our everyday lives to understand this. We know all about it. We live it everyday and there seems little or nothing to do if we want to have greater affect on the socius than the few campus activists seem to have had. I am simply suggesting that there is some value in going back to this essay, not to read it as an historical document, but to read it for its prescience and its pertinence for today. The problem, it seems, is the same now as it was in 1966, perhaps even worse. How do we combat the social reproduction of the student who is the "product of modern society just like Godard and Coca Cola?"

If interested, you can find "On the Poverty of Student Life" reprinted in The Situationist International Anthology, ed. Ken Knabb published by Bur Public Secrets or in pamphlet form published by Black and Red.

Gale Cup Mooting Competition

Professor Ronald Sklar

The gale team members and I were in Toronto the weekend of March 1st to 3d for the Gale Cup Competition. In Martin Ertl and Ami Kotler for the Appellants and David Outerbridge and Rachel Young for the Respondents, I felt we had one of the strongest teams I've ever coached. Unfortunately, in the preliminary round, Respondents ran into Dalhousie, an even stronger team, at least that in the opinion of the bench. Dalhousie went on to the "final four" and to win the competition (the other three teams were from Alberta, Laval and Windsor).

There were 19 teams in the competition and whenever there is an odd number of teams, one team is forced to argue both its preliminary rounds on Saturday morning; this year that team was us. As a result, I watched our Appellants argue and then ran over to another room to watch the Respondents

argue. I thus saw neither of our opponents and each of our teams wasn't able to watch the other argue, a frustrating situation. I was proud of both of our teams, they were superlative. We all got a chance to watch Dalhousie Appellants go up against Windsor in one of the two finals, and they were, in fact, very good.

Our 1-1 record left us back in the second group. That, as I said last year, can happen at the Gale where teams advance to the final round on the basis of won-lost records rather than total point counts. Thus, when two very strong teams meet in the preliminaries, as was the case with Dalhousie versus McGill, one has to go home empty.

The Supreme Court decision mooted this year was a search and seizure case and question of admissibility under section 24(2) of the Charter, the *Siveira* case. While it was thus a law-and-order versus individual rights controversy, it

gave rise to more equally balanced issues and arguments than the *Daviault* case last year, the intoxication/ sexual assault case.

The organization of the weekend and the lunches and dinners, as always, were excellent and enjoyable. Too bad, however, the pre-moot organization wasn't better. The organizing committee had originally decided that the Crown's concession in the actual case that the search had violated section 8 of the Charter was binding on all participating teams. They reversed that a week before the Appellant's factum was due, necessitating pushing back factum deadlines a week. To make things worse, not all the teams were informed of the change at the same time, throwing everyone into a tizzy. All of us think the organizers should also consider holding the Saturday night reception somewhere other than the Canadian Military Institute with its backdrop of guns and war.

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Student Shut-Out

Stephen Barringer, BCL I

Great confusion exists as to the official name of that administrative office on the main floor of Old Chancellor Day Hall. Some call it the SAO (Student Affairs Office). Others call it the OUS (Office for Undergraduate Students). Others call it the USO (Undergraduate Studies Office). Still others call it the SAO-OUS-USO in the same breath, to leave no doubt as to their intent. I propose that, in light of recent events, the name once-and-for-all be changed and officialized. Why?

There is quite a lot of anecdotal evidence about the rude treatment of applicants to the Faculty by the people on the telephone. It would perhaps be a good idea to have a "courtesy policy" for all telephone enquirers. But its much like chopping down trees in the forest. If no one hears the tree fall... I digress.

There is also much anecdotal evidence about the rude treatment of students. Of course, this is not the norm. But it happens too often.

Perhaps having six hundred stressed out law students around can hardly be conducive to a friendly environment in that office. So, in recent months we have seen students get shut out of the SAO. First, came the closed-door policy. A sign asked us to please keep that door CLOSED! (All the noise from all those students out there was getting to be too much to bear.) Then came the early closure policy. (Since the SAO cannot do everything they have to do AND be hassled by students at the same time, the office is now closed daily at 4:00 p.m.) Finally, the student mailboxes have been moved to the LSA office, which has led to greatly reduced traffic and noise in the SAO. (If you're looking for your mail to the Faculty, you

can find it down there in the Pit, right beside where the telephones, leather chairs and pool balls were stolen.)

In effect, everything seems to indicate that students are getting shut out of the SAO. Students seem to be a pain-in-the-neck in there. Why have the word "student" in the acronym at all? How about a new name? I propose "General Administrative Office" or "GAO".

There are three main possible responses by the SAO to this short article. First, do nothing. Second, defensively argue that politeness is a two-way street and that if there are problems, they are caused by the people on both sides. Third, recognize that a problem exists, that you should be ashamed of yourselves to the extent that it is true that this problem exists, and do something about it.

TOP 10

Steven Leitman, BCL II

Top Ten Skits That Surprised Me at Skit Nite:

10. Someone imitating Professor Scott.
9. Pee Wee Herman performing as only he can.
8. Associate Dean Daniel Jutras scoring a knockout win over Jody Berkes in the 3rd round.
7. Victor Borge playing "The Lone Ranger" backwards.
6. Me. Janice Naymark and Me. Steven Hamilton as Bonnie and Clyde.
5. Don Mattingly cutting his hair.
4. Five profs devouring a side of raw meat.
3. The one that made a law joke.
2. Dean Toope and Marian Tremblay re-enacting that classic duel between Darth Vader and Luke Skywalker.
1. Armand L.C. DeMestral swallowing 17 goldfish.

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(Continued from page 1)

Placement Office and of Placement Day and Careers Day;

-New Committee: the Finance Committee was created to assist in the marketing and fundraising aspects of the Corporation and in the operations of the "Pit Stop";

-Faculty Council: an advisory council will be established to consult students on a regular basis on faculty, curriculum and examinations issues;

-Restructuring of L.S.A. Committees: we recognize the different committees of the L.S.A. depending on their status. We also wanted to help their members to know what their functions require and make them report to the Board at the end of the year;

-Recognition of new clubs and new charity: New clubs were established this year (the McGill Legal Activist Society and Sexual Minorities and the Law) as well as a new charity (Share the Warmth) and we included them in the constitutional package;

-Patricia Allen Award: the L.S.A. Participation Award will have its name changed to the Patricia Allen Award for Participation. Ms. Patricia Allen was a student of our faculty who was highly

involved in the activities of the L.S.A., most notably with Skit Nite. We want to recognize her contribution and participation.

La Tradition:

Le français et l'anglais demeurent les langues officielles de la Compagnie. Par ailleurs, l'esprit, les principes ainsi que les grandes lignes de l'ancienne constitution ont été étroitement respectés.

La Procédure:

Tous les changements ont été l'objet de débats aux conseils exécutif et législatif. Nous avons pris soin de consulter plusieurs étudiant(e)s pour obtenir leurs commentaires sur les versions préliminaires. Les avocats de McCarthy Tétrault nous ont conseillé tout au long de la procédure de rédaction. Le travail a débuté en 1992 et s'est donc échelonné sur quatre ans. Il est temps pour nous de régler ce dossier.

A referendum was held in 1992 to adopt the corporate structure. The L.S.A. decided to hold another referendum this year to approve the changes suggested above and complete the process. All members of the LSA legislative council voted in favour of the package. It is now your turn. We wanted to provide students with the opportunity to have a say. We strongly believe that the package will be

a good document, user-friendly and respecting the principles and values of our old Constitution. Students of the faculty placed their faith in electing this year's L.S.A. council. Upon leaving office, we would like to live up to this faith in offering you and future students our legacy: a charter which we hope will last forever.

Des copies du Document ("Package") en français et en anglais sont maintenant disponibles au bureau du L.S.A. (au dessus des boîtes aux lettres pour étudiant(e)) ainsi qu'en réserve à la bibliothèque et sur le réseau e-mail de la faculté sous PUBDOCS\LSA\BYLAWS.

Please vote on Wednesday March 20th and Thursday March 21st.

In the meantime, do not hesitate to call or e-mail me or any other executive if you have any questions.

Note: Sincères remerciements à tout ceux qui ont donné des heures et des heures de travail à ce projet: traducteurs (Simon, Richard, Dominique, John), membres du comité de révision de la Constitution du L.S.A., membres des conseils exécutif et législatif, collaborateur spécial (Vincent), nos avocats (McCarthy Tétrault) ainsi que tous les autres participants.

RESOURCE GROUPS UPDATE

Marian Tremblay and Vincent de Grandpré, Nat IV

Just a few lines to let you know that the Resource Groups are alive and well.

We had over 10 groups meeting last semester and student response was very positive. We are currently in the process of evaluating last semester's experience: you should be able to read about it soon in the pages of the *Quid*. This semester, less courses lent themselves to the format of the Groups. Nevertheless, a Resource Group led by Desmond Lee and Craig Shepherd was set up in *Business Associations* and met twice. Dimitri Maniatis also met twice with interested students in *Public International Law*. We are hoping that a Group will soon be set up

by David Cohen and Gayle Noble in *Contracts I*. It should also be added that Martin Ertl is still singlehandedly helping *Constitutional Law* students, and that Ami Kotler's legendary *Torts* skills may be available to needy students at the end of the term. Congratulations and thank you people!

ACADEMIC SEMINARS

Se dérouleront à la Faculté aujourd'hui (lundi 18 mars) et lundi prochain (25 mars) deux séminaires sur des matières légales non enseignées dans les cours réguliers de la Faculté. Aujourd'hui, à 12:30, le vice-doyen Daniel Jutras donnera un mini-cours de moins de 2 heures sur le droit transitoire québécois dans la salle 201. Apportez votre lunch. Lundi prochain, Me Philippe Bélanger donnera au Moot Court à 12:30 un cours sur l'interprétation des lois (Statutory Interpretation).

Those who have worked in law firms last summer may have realized that many (if not most) current civil law problems raise questions of transitional law. Don't miss this opportunity to familiarize yourself with basic concepts of transitional law. Similarly, Me Bélanger of McCarthy, Tétrault will offer an introductory course on Statutory Interpretation on the 18th. This is your chance to acquire practical legal knowledge and skills!

The Faculty cannot teach courses in every legal field. Short academic seminars aimed at providing basic tools to research unfamiliar fields of law may perhaps be popular. There are plenty of experts in Montreal on a variety of interesting and useful fields: let's take advantage of them!